

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DOMINQUE ZAFIR CASEY,
Plaintiff,
v.
SGT. BROWN, et al.,
Defendants.

No. 1:23-cv-1068 JLT SAB (PC)

**ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS TO DISMISS
CERTAIN DEFENDANTS**

(Doc. 12)

Dominque Zafir Case seeks to hold the defendants liable for violations of civil rights pursuant to 42 U.S.C. § 1983. The assigned magistrate judge screened Plaintiff's Second Amended Complaint pursuant to 28 U.S.C. § 1915A(a) and found Plaintiff stated cognizable claims for excessive force against Defendants Cruz, Castellinos, Veith, Duran, Godfrey and failure to intervene claims against Defendants Brown, Bess, and Diaz. (Doc. 12.) However, Plaintiff failed to state a cognizable claim against Defendant Medina. (*Id.* at 3-4.) The magistrate judge recommended the action proceed on Plaintiff's cognizable claims and all other defendants be dismissed from the action. (*Id.* at 5.)

The Court served the Findings and Recommendations on Plaintiff, and informed Plaintiff any objections were due within 14 days. (Doc. 12 at 5.) The magistrate judge advised Plaintiff that the "failure to file objections within the specified time may result in waiver of his rights on appeal." (*Id.* at 5-6 citing *Wilkerson v. Wheeler*, 772 F.3d 834, 839 (9th Cir. 2014); *Baxter v.*

1 *Sullivan*, 923 F.2d 1391, 1394 (9th Cir. 1991).) Plaintiff did not file objections or otherwise
2 respond to the Court.

3 According to 28 U.S.C. § 636(b)(1)(C), the Court performed a de novo review of this
4 case. Having carefully reviewed the matter, the Court concludes the Findings and
5 Recommendations to be supported by the record and proper analysis. In the Second Amended
6 Complaint, Plaintiff failed to state a claim against Medina and dropped Elizabeth Stark as a
7 defendant. (*Compare* Doc. 9 *with* Doc. 12.) Accordingly, these individuals should be terminated
8 as defendants. Thus, the Court **ORDERS**:

- 9 1. The Findings and Recommendations issued December 21, 2023 (Doc. 12) are
10 **ADOPTED** in full.
- 11 2. This action **PROCEEDS** *only* on Plaintiff's claims for excessive force against
12 Cruz, Castellinos, Veith, Duran, Godfrey; and failure to intervene against Brown,
13 Bess, and Diaz.
- 14 3. All other Defendants are **DISMISSED**.
- 15 4. The Clerk of Court is directed to update the docket and terminate Medina and
16 Stark as defendants.
- 17 5. This matter is referred to the assigned magistrate judge for further proceedings.

18
19 IT IS SO ORDERED.

20 Dated: **January 17, 2024**


UNITED STATES DISTRICT JUDGE